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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

JOSEPH F. HARBISON, III dba JOSEPH F.  
HARBISON, III & ASSOCIATES,

Plaintiff,

v.

AMERICAN MOTORISTS INSURANCE  
COMPANY,

Defendant.

No. CIV.S-04-2542 FCD/ JFM

**ORDER CONTINUING MARCH 28,  
2008 STATUS CONFERENCE**

**Courtroom: 2, 15<sup>th</sup> Floor**  
**The Honorable Frank C. Damrell, Jr.**

**STATUS OF UNDERLYING ACTION**

This is an insurance coverage and “bad faith” action that arises from an underlying lawsuit entitled *Christopher J. Olsen v. Joseph F. Harbison, III dba Joseph F. Harbison, III & Associates*, Sacramento Superior Court action number 03AS06006 (the “Underlying Action”). As the parties’ previously advised this Court, American Motorists’ indemnity obligation and alleged breach of the

1 implied covenant of good faith and fair dealing cannot be determined until the Underlying Action  
2 has been resolved.

3 The trial of the Underlying Action has been continued several times, and is now set for  
4 March 17, 2008. The trial is estimated to take two weeks. We have been advised that the five-year  
5 statute expired in February 2008. The parties therefore stipulated to the March 17 trial date, with  
6 an allowance for the case to trail through April in the event a courtroom is unavailable. We are  
7 advised the defense will not stipulate to any further extension of the statute.

8 STATUS OF THIS INSURANCE ACTION

9 Based on the parties' earlier stipulation, this Court has temporarily stayed litigation of this  
10 suit pending trial of the Underlying Action. A further status conference is currently scheduled for  
11 March 28, 2008. This March 28 date was set based on a November 20, 2007 trial date in the  
12 Underlying Action.

13 Since trial of the Underlying Action will not begin until March 17 (at the earliest), the  
14 parties request that the status conference be continued 60 days, to May 30, 2008. That should  
15 allow sufficient time to conclude the trial proceedings in the Underlying Action.

16 STIPULATION TO CONTINUE THE STATUS CONFERENCE

17 The parties to this action, by and through their respective counsel, stipulate as follows:

18 1. Because defendant's indemnity obligation and alleged breach of the implied  
19 covenant of good faith and fair dealing cannot be determined until resolution of the Underlying  
20 Action, the parties agree that this action should continue to be temporarily stayed until the  
21 Underlying Action is resolved. Trial of the Underlying Action currently is set for March 17, 2008.

22 2. The parties also stipulate and request that a further status conference be scheduled  
23 for May 30, 2008 at 10:00 a.m., with an updated joint status report due May 20, 2008.

24 DATED: February 15, 2008

25 LOMBARDI, LOPER & CONANT

26  
27 By: /s/ Lori A. Sebransky  
Lori A. Sebransky  
Attorneys for Plaintiff

WAXLER CARNER WEINREB & BRODSKY LLP

By: /s/ Marnin Weinreb  
MARNIN WEINREB  
Attorneys for Defendant

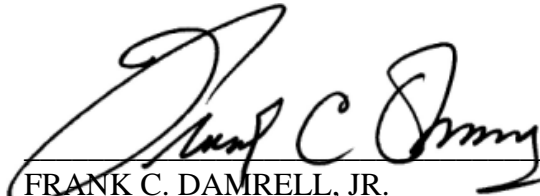
ORDER

IT IS HEREBY ORDERED that

1. This action continues to be temporarily stayed until the Underlying Action is resolved. Trial of the Underlying Action currently is set for March 17, 2008.

2. A further status conference is set for June 6, 2008 at 10:00 a.m. An updated joint status report must be filed by May 23, 2008.

DATED: February 15, 2008

  
FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE